

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
JUAN C.,	:	
	:	
Plaintiff,	:	21 Civ. 9554
	:	
-against-	:	
	:	<u>ORDER</u>
COMMISSIONER OF SOCIAL SECURITY,	:	
Defendants.	:	
-----X	:	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, an Order issued March 3, 2022, referred this case to the assigned Magistrate Judge for a report and recommendation on any motion for judgment on the pleadings. On June 6, 2022, Plaintiff filed a motion for judgment on the pleadings and on August 5, 2022, Defendant filed a motion for judgment on the pleadings.

WHEREAS, on August 18, 2022, the assigned Magistrate Judge was re-designated as the Hon. Gary J. Jones. On October 24, 2022, Judge Jones issued a Report and Recommendation, recommending that Plaintiff's motion be granted, Defendant's motion be denied, and this case be remanded for further proceedings. The Report and Recommendation concluded that the ALJ erred in relying on testimony from a vocational expert that conflicted with the Department of Labor's Dictionary of Occupational Titles, which the Social Security Administration has taken administrative notice of, *see* 20 C.F.R. § 416.966(d)(1), without resolving that conflict. *See Brault v. Social Security Admin.*, 683 F.3d 443, 446 (2d Cir. 2012) (requiring a "reasonable explanation" when an ALJ credits a vocational expert over the Dictionary of Occupational Titles).

WHEREAS, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties had fourteen days to file any objections to the Report and Recommendation. No objections were timely filed.

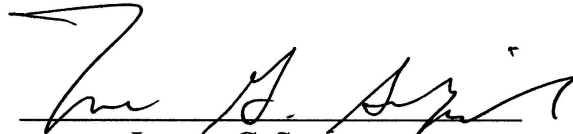
WHEREAS, in reviewing a magistrate judge's report and recommendation, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Jones v. Berryhill*, No. 18 Civ. 11233, 2020 WL 1503507, at *1 (S.D.N.Y. Mar. 30, 2020) (internal citations and quotation marks omitted).

WHEREAS, the Court finds no clear error on the face of the Report and Recommendation. It is hereby

ORDERED that the Report and Recommendation are adopted in full, for the reasons stated in the Report and Recommendation. Plaintiff's motion for judgment on the pleadings is **GRANTED** and Defendant's motion for judgment on the pleadings is **DENIED**. This case is **REMANDED** for further proceedings in line with the Report and Recommendation.

The Clerk of Court is respectfully directed to close the gavels at Dkt. Nos. 14 and 16.

Dated: November 29, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE